

Chapter CLIII.¹

THE OFFICERS OF THE HOUSE AND THEIR ELECTION.

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23. A majority vote is required for the election of officers of both Houses of Congress.—On May 11, 1911,² in the Senate, at the conclusion of a roll call for the election of President pro tempore of the Senate, the Presiding Officer announced that Mr. Augustus O. Bacon, of Georgia, had received 35 votes; Mr. Jacob H. Gallinger, of New Hampshire, 32 votes; Mr. Moses E. Clapp, of Minnesota, 4 votes, and three other Senators, 1 vote each; and there was no choice.

Mr. Charles A. Culberson, of Texas, submitted:

Mr. President, the Constitution of the United States contains no provision with reference to the vote by which a President pro tempore of the Senate may be elected.

The Presiding Officer³ said:

The Chair is very clearly of opinion that under the Constitution of the United States, in the absence of any provision to the contrary, all officers of both Houses must be elected by a majority; and in the practice of the House, where there have been contests very frequently, a majority vote has been and is required. The Chair is aware that there is no provision in the Constitution of the United States in so many words requiring a majority vote for the election of a President pro tempore, neither is there a provision requiring it for a Speaker of the House. It makes the same provision for the officers of both Houses, and in the opinion of the Chair it is the contemplation of the Constitution that a majority should be required for the election of all officers.

24. The contest over the election of Speaker in 1923.

Memorandum of a program to be followed in the adoption of rules, agreed upon preliminary to the organization of the House.

¹ Supplementary to Chapter VI.

² First session, Sixty-second Congress, Record, p. 1188.

³ Henry Cabot Lodge, of Massachusetts, President pro tempore.

On December 3, 1923,¹ at the organization of the House, the first roll call for the election of Speaker resulted as follows:

For Frederick H. Gillett	197
For Finis J. Garrett	195
For Henry Allen Cooper	17
For Martin B. Madden	4
Answering present	4
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Whole number of votes cast	414

Three additional ballots were taken without materially changing the result, when the House adjourned.

On December 4 four ballots were taken on the election of Speaker without any candidate receiving a majority of the votes cast, the last roll call showing:

For Finis J. Garrett	198
For Frederick H. Gillett	197
For Henry Allen Cooper	17
For Martin B. Madden	5
Answering present	3
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Whole number of votes cast	417

On December 5,² immediately after the reading of the Journal, Mr. John M. Nelson, of Wisconsin, obtained consent to submit the following statement which was read by the Clerk.

A committee of the Progressive group of the House of Representatives, consisting of Messrs. Woodruff and LaGuardia and myself, met with Majority Leader Longworth last evening and discussed the proposed procedure for a revision of the rules of the House. At this meeting mutual assurances were given that the following program would be carried out:

1. That the rules of the Sixty-seventh Congress should be adopted as the rules of the Sixty-eighth Congress for 30 days only.
2. That during these 30 days amendments to the rules may be offered by any Member, to be referred to the Committee on Rules, which committee shall consider such amendments and make a report thereon to the House.
3. Within such 30 days the committee shall make a report of the rules and such amendments as they recommend. The rules and amendments as reported by the committee shall be subject to reasonable discussion, amendment, and record votes of the House.
4. When the committee shall have made its report any Member of the House shall, have opportunity to offer amendments to any rule of the House and may call for a record vote thereon, whether such rule has been included in the report of the committee or not.
5. One motion to recommit shall be in order.

Thereupon, the roll was called for the ninth time on the election of Speaker and was announced as follows:

For Frederick H. Gillett	215
For Finis J. Garrett	197
For Martin B. Madden	2
Answering present	4
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Whole number of votes cast	414

¹First session, Sixty-eighth Congress, Journal, p. 5; Record, p. 8.

²Record, p. 14.

Mr. Frederick H. Gillett, of Massachusetts, having received 215, a majority of the votes cast, was declared duly elected Speaker, and addressed the House.

25. In case of temporary absence or disability the Clerk designates a Clerk pro tempore.

Amending Rule III by the addition of a now clause to be known as clause 4.

On January 18, 1912,¹ the House adopted a resolution, reported from the Committee on Rules, adding to Rule III a new clause, to be clause 4, to read as follows:

He [the Clerk] shall, in case of temporary absence or disability, designate the Chief Clerk, or some other official in his office, to sign all papers that may require the official signature of the Clerk of the House, and to do all other acts, except such as are provided for by statute, that may be required under the rules and practice of the House to be done by the Clerk. Such official acts, when so done by the Chief Clerk or other official, shall be under the name of the Clerk of the House. The said designation shall be in writing, and shall be laid before the House and entered on the Journal.

This amendment formally authorized a long-established practice,² with the additional requirement that such designation be in writing and be laid before the House and entered on the Journal.

Under the rule the designation has been in the form of a letter addressed to the Speaker and by him laid before the House.³

26. Form of designation of a clerk pro tempore.—On May 3, 1933,⁴ the Speaker laid before the House the following communication designating an official to subscribe the signature of the Clerk of the House to official papers in his absence:

WASHINGTON, D.C., May 2, 1933.

Hon. HENRY T. RAINEY,
Speaker of the House of Representatives,

Washington, D.C.

DEAR MR. SPEAKER: Desiring to be temporarily absent from my office, I hereby designate Mr. H. Newlin Megill, an official in my office, to sign any and all papers for me which he would be authorized to sign by virtue of this designation and of clause 4, rule III of the House.

Yours respectfully,

SOUTH TRIMBLE,
Clerk of the House of Representatives.

27. The Clerk is required to pay the officers and employees of the House on the first secular day of each month.

Amending section 3 of Rule M.

Section 3 of Rule III provides:

He [the Clerk] shall pay the officers and employees of the House of Representatives, on the first day of each month, the amount of their salaries that shall be due them; and when the first day of the month falls on Sunday he shall pay them on the day next preceding.

¹ Second session Sixty-second Congress, Record, p. 1072.

² House Report No. 238.

³ First session, Sixty-seventh Congress, Journal, p. 405; Record, p. 4658.

⁴ First session Seventy-third Congress, Record, p. 2814.

Formerly¹ salaries were paid on the last day of the month, but in the revision of the rules adopted April 5, 1911,² the provision was altered, changing the time of payment from the last day of the month to the first day of the month.

28. The present seal of the House was provided in 1880.

On June 14, 1912,³ Mr. John C. Floyd, of Arkansas, presented the following resolution, which was agreed to by the House:

Whereas the great seal of the House of Representatives having been in use continually since the year 1830 A. D., and having now become so worn as to make impressions taken therefrom almost illegible: Be it

Resolved, That the Clerk of the House of Representatives immediately procure a new seal for the use of the House of Representatives, which shall possess the same design and description as the present seal, but shall now have 48 stars, emblematic of the 48 States of the Union, instead of the 24 stars now upon the present seal, which represent the 24 States constituting the Union at the time of the adoption of the present seal.

The necessary expense of procuring the new seal to be paid out of the contingent fund of the House.

This resolution was never carried into effect, and the House continues to use the seal provided in 1830.

During consideration of the resolution Mr. Floyd announced that when the seal was obtained he would introduce a resolution similar to the one⁴ then in force with reference to furnishing a copy of the impression to the State Department, but such resolution was not offered.

29. The Sergeant-at-Arms attends the sitting of the House, and under direction of the Speaker or Chairman maintains order.

Amending Section I of Rule IV:

Section 1 of Rule IV provides:

It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk; execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker; keep the accounts for the pay and mileage of Members and Delegates, and pay them as provided by law.

This rule was adopted January 6, 1880,⁵ and was retained until the revision of 1890,⁶ when a clause was added providing for the attendance of the Sergeant-at-Arms upon the Committee of the Whole also. This clause was stricken out in the Fifty-second and Fifty-third Congresses, restored in the Fifty-fourth Congress, and continued as a part of the rule until finally eliminated in the revision of the rules adopted April 5, 1911.²

30. The Speaker does not assume to control the Sergeant-at-Arms in the discharge of certain official duties.

¹ Vol. I, see. 251, of this work.

² First session Sixty-second Congress, Journal, p. 40; Record, p. 80.

³ Second session Sixty-second Congress, Record, p. 8146.

⁴ Vol. I, see. 256, of this work.

⁵ Second session Forty-sixth Congress, Record, p. 204.

⁶ House Report No. 23, first session Fifty-first Congress.

The question as to whether an officer of the House is properly discharging the duties of his office is a legal proposition, and one which the Speaker is not called upon to decide.

The House has by resolution directed the enforcement of the statute¹ providing for deductions by the Sergeant-at-Arms from the pay of Members and Delegates absenting themselves without leave.

On August 25, 1914,² Mr. Oscar W. Underwood, of Alabama, submitted the following resolution, which was agreed to by the House:

Resolved, That all leaves of absence heretofore granted to Members are hereby revoked.

Resolved further, That the Sergeant-at-Arms is hereby directed to notify all absent Members of the House by wire that their presence in the House of Representatives is required, and that they must return without delay to Washington.

Resolved further, That the Sergeant-at-Arms is directed to enforce the law requiring him to deduct from the salary of the Members their daily compensation when they are absent for other cause than sickness of themselves and their families.

In compliance with this resolution the Sergeant-at-Arms addressed to each Member a request for a certification on blanks prepared for that purpose of the number of days he had been absent from the House and the occasion for such absence.

On October 3, 1914,³ Mr. Ben Johnson, of Kentucky, rose to a question of privilege, reciting that he had been in attendance upon the House during the past month, but that the Sergeant-at-Arms, although personally aware of that fact, had withheld his salary because he declined to certify to his attendance upon the sessions of the House as required.

Mr. Johnson asked that the Speaker determine his rights as a Member to his salary, and instruct the Sergeant-at-Arms accordingly.

The Speaker⁴ held the matter to be a legal proposition which the Chair was not authorized to pass upon, and in discussing the right of the Speaker to supervise the official duties of the Sergeant-at-Arms said:

It is the business of the Sergeant-at-Arms. The Speaker has no more authority over the Sergeant-at-Arms than the gentleman from Kentucky. Each one of these officers elected here is expected to attend to his own business. Of course, once in a while I have assumed the authority I have, in a friendly kind of way, of making suggestions to the various officers of the House, and communicate to them any complaints Members have made about what their helpers are doing; but beyond that the Speaker has no control over it.

The whole business resolves itself into this: The statutes require the Sergeant-at-Arms to do certain things.

That is a legal proposition which the Chair is not authorized to pass upon.

31. The election of a Chaplain emeritus.

The Chaplain takes the oath prescribed for the officers of the House.

¹ U. S. Code, title 2, section 39.

² Second session Sixty-third Congress, Record, p. 14229; Journal, p. 881.

³ Second session Sixty-third Congress, Record, p. 16119.

⁴ Champ Clark, of Missouri, Speaker.

On January 6, 1921,¹ Mr. Clifford Ireland, from the Committee on Accounts, asked unanimous consent for the consideration of the following resolution:

Resolved, That immediately following his resignation as Chaplain of the House of Representatives, Henry N. Couden be, and he is hereby, appointed Chaplain emeritus of the House of Representatives, with salary at the rate of \$1,500 per annum, payable monthly, to be paid out of the contingent fund of the House until otherwise provided by law.

The resolution was agreed to, and on January 13, 1921,² the Speaker laid before the House the following communication:

HOUSE OF REPRESENTATIVES,
CHAPLAIN'S OFFICE,
January 11, 1921.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES,

Washington, D. C.

MY DEAR MR. SPEAKER: It becomes my sad and painful duty to tender my resignation as Chaplain of the House of Representatives, to take effect when my successor shall have been chosen, my only reason being physical disability

Allow me to express my thanks to the Members of the House for their uniform courtesy and kindness through all these years.

Cordially and sincerely,

HENRY N. COUDEN.

No action was taken relating to the election of a successor, and on February 28, 1921,³ the Speaker laid before the House a further communication as follows:

WASHINGTON, D. C., *February 28, 1921.*

Hon. FREDERICK H. GILLET,

Speaker of the House of Representatives.

MR. DEAR MR. SPEAKER: I beg hereby to respectfully resign as Chaplain of the House of Representatives, and request that my resignation be accepted at once.

Sincerely,

HENRY N. COUDEN, *Chaplain.*

Thereupon,⁴ on motion of Mr. Horace M. Towner, of Iowa, Rev. Dr. James Shera Montgomery was elected Chaplain, and appeared at the bar of the House and took the oath of office prescribed by law.

32. During the temporary disability of the Sergeant-at-Arms another was authorized to perform the duties of the office.

The death of the Sergeant-at-Arms being announced, the House passed appropriate resolutions and adjourned as a mark of respect.

Upon the death of the Sergeant-at-Arms, a Sergeant-at-Arms pro tempore was elected to serve until a successor was chosen.

The vacancy caused by the death of the Sergeant-at-Arms was, after some delay, filled by the House by election.

¹Third session Sixty-sixth Congress, Journal, p. 85; Record, p. 1056.

²Third session Sixty-sixth Congress, Record, p. 1392.

³Third session Sixty-sixth Congress, Record, p. 4075.

⁴Third session Sixty-sixth Congress, Journal, p. 275; Record, p. 4174.

On June 1, 1912,¹ Mr. Lincoln Dixon, of Indiana, offered by unanimous consent the following joint resolution:

Resolved, etc., That Charles F. Riddell, cashier in the office of the Sergeant-at-Arms of the House of Representatives, be, and he is hereby, authorized and directed to sign all necessary checks, requisitions, and papers in the place of U. S. Jackson, Sergeant-at-Arms of the House of Representatives, to secure the money appropriated for the salaries and mileage of the Members of the House of Representatives during the temporary disability of the said U. S. Jackson, Sergeant-at-Arms; and the Treasurer of the United States is hereby authorized to pay the said money to the said Riddell, cashier, in conformity to the provisions of this resolution, upon the approval by the Secretary of the Treasury of a bond in the sum of \$50,000 of the said Riddell, payable to the United States of America.

The resolution was passed and transmitted to the Senate, where it was considered and passed June 3.²

On June 22,³ on motion of Mr. Dixon, it was:

Resolved, That the House has heard with profound sorrow of the death of Hon. U. S. Jackson, Sergeant-at-Arms of the House.

Resolved, That as a mark of respect to his memory the House do now adjourn.

Subsequently⁴ a message was received from the Senate⁵ announcing the passage of the following:

Resolved, etc., That Charles F. Riddell, cashier in the office of Sergeant-at-Arms of the House of Representatives, be, and he is hereby, authorized and directed to draw checks, requisitions, and execute all papers necessary to obtain from the United States Treasury the money appropriated for salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until a Sergeant-at-Arms of the House of Representatives has been duly elected and qualified; and the Treasurer of the United States is hereby authorized to pay the said money to the said Riddell, cashier, in conformity with the provisions of this resolution; and that the bond executed by said Riddell, as cashier in the office of Sergeant-at-Arms in the House of Representatives, in the penal sum of \$50,000, payable to the United States of America, by authority of public resolution No. 34, approved June the 4th, 1912, be, and the same is hereby, with the consent of the sureties on said bond, extended in force and effect to cover the faithful discharge of the aforesaid cashier's duties, as herein authorized and directed, until a Sergeant-at-Arms of the House of Representatives has been elected and qualified.

The resolution was passed by the House, but the oath prescribed for officers of the House was not administered.

Mr. Riddell continued to discharge the duties of the office until July 18,⁶ when, on motion of Mr. J. Thomas Heflin, of Alabama, he was elected Sergeant-at-Arms, and the oath of office was administered by the Speaker.

33. The House does not pass upon the acceptance of resignations from statutory positions, even when it is authorized to fill such offices.

Communications announcing resignations of employees of the House from statutory offices are read and ordered to be laid on the table.

¹ Second session Sixty-second Congress, Journal, p. 752; Record, p. 7516.

² Second session Sixty-second Congress, Record, p. 7529.

³ Second session Sixty-second Congress, Record, p. 8480.

⁴ Second session Sixty-second Congress, Journal, p. 825; Record, p. 8487.

⁵ During debate in the House it was explained that the joint resolution originated in the Senate at the request of Members of the House, as the Senate convened at 10 o'clock and would not be in session when the House met, and the emergency required immediate action.

⁶ Second session Sixty-second Congress, Record, p. 9241.

On February 1, 1910,¹ the Speaker² laid before the House the following communication:

JANUARY 20, 1910.

Hon. JOSEPH G. CANNON,

Speaker House of Representatives, Washington, D. C.

SIR: I hereby resign my position as special messenger³ of the House of Representatives, to take effect February 1, 1910.

Respectfully,

JOSIAH H. SHINN.

The question of the acceptance of the resignation was not considered, and the Speaker directed that the communication be laid on the table. Thereupon, the House proceeded to the election of a successor.

34. The Postmaster superintends the post office in the Capitol and House Office Building and is responsible for the prompt and safe delivery of mail.

Amendment of Rule VI.

Rule VI provides:

The Postmaster shall superintend the post office kept in the Capitol and House Office Building for the accommodation of Representatives, Delegates, and officers of the House, and be held responsible for the prompt and safe delivery of their mail.

The rule originally provided for the post office in the Capitol only.⁴ The opening of the House Office Building in 1907 made necessary the establishment of a post office there, and in the revision of the rules adopted April 5, 1911,⁵ an amendment to Rule VI was included providing for that office also. With this exception there has been no change in the rule since the revision of 1880.

¹ Second session Sixty-first Congress, Journal, 241; Record, p. 1361.

² Joseph G. Cannon, of Illinois, Speaker.

³ The position of special messenger was created in the legislative, executive, and judicial appropriation bill approved Mar. 4, 1909.

⁴ Vol. I, sec. 270, of this work.

⁵ First session Sixty-second Congress, Journal, p. 40; Record, p. 80.